

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Peter Greenberg
25 Avocado Street, Springfield, Ma, 01101-2469

Date application filed with the Town Clerk: August 22, 2008

Nature of request: Special Permit to transfer ownership of the existing auto part sales and installation business, allow for the continued use of a preexisting non-conforming building as permitted in Special Permit ZBA FY 87-10, and modify condition #12; the petitioner also seeks to modify ZBA FY 81-1, to remove Condition #5, expiration upon change of management.

Address: 292 College Street (Map 14B-Parcel 198).

Legal notice: Published on September 10 and September 17, 2008 in the Daily Hampshire Gazette and sent to abutters on September 10, 2008.

Board members: Jane Ashby, Eric Beal, Hilda Greenbaum

Submissions: The petitioner submitted a packet of information with the application including:

- A description of the nature of the request, titled Addendum #1;
- A Management Plan, titled Addendum #2;
- A site plan prepared by Huntley Associates 12/1/98; and
- A site plan prepared by Robinson Engineering dated 4/21/88 showing new parking spaces;
- Two letters of support from the owners of 308 and 260 College Street.

Planning Department staff submitted the following information:

- A memorandum dated September 18, 2008 regarding the application, zoning and dimensional requirements for the subject property;
- A copy of the previous Special Permits ZBA FY87-10, 81-1, 81-56, 83-10 and 93-34;
- A GIS map showing property boundaries.

Site Visit: September 23, 2008

The Board met with the applicant, Peter Greenberg at the property and observed the following:

- The property, located at the edge of a commercial district, with homes to the north and south and commercial and residences to the east along College Street.
- The existing interior of the retail showroom, the garage bays and storage area;
- The existing exterior of the parking area;
- The existing signs on the property;
- The existing areas of fenced tire storage;
- The approximate location of the northerly property line.

Public Hearing: September 25, 2008

The applicant, Peter Greenberg, stated that he is seeking approval to continue the use of pre-existing non-conforming building at 292 College Street, Amherst Tire, Inc., and that he is currently in the process of purchasing the property. Mr. Greenberg indicated that he will maintain the existing employees, with the exception of management and that the only changes he intends to make are the addition of three standard parking spaces and one handicap accessible space to meet requirements of the Zoning Bylaw.

Mr. Greenberg noted that the previous permit for the building was issued only to the current owner and a previous permit for the signs was conditioned to expire upon change of ownership or management.

The Board reviewed the applicant's site plan and noted the addition of three 8 x16 foot parking spaces, as allowed in Section 7.102; Also added is one 9 x 18 foot handicapped space with a discharge aisle and an approximate 5 foot wide painted access way to the building as allowed in Section 7.6 of the Zoning Bylaw.

The applicant noted that the small Amherst Tire sign attached to the larger Goodyear pole sign adjacent to College Street will be removed. The applicant also noted that he intends to update the signs on the property in the near future. He agreed that they would be submitted to the ZBA for approval at a public meeting.

Ms. Ashby read two letters of support from Bill Sumner, owner of 308 College Street, and John Stanley, owner of 260 College Street.

Ms. Greenbaum asked about landscaping adjacent to College Street. The applicant noted that some landscaping is currently in that location, as shown on the site plan and there is little room for there for much more than grasses and small shrubs.

No comments from the public were made during the hearing.

Ms. Greenbaum made a motion to close the public hearing. Eric Beal seconded the motion and the Board voted unanimously to close the public hearing.

Public Meeting:

Ms. Ashby asked if any Board members objected to granting a Special Permit to continue the existing use. There were no objections. The Board spent the remainder of the public meeting discussing the conditions of the Special Permit if approved.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings, required of all Special Permits, that:

10.380 and 10.381- The proposal is suitably located in the neighborhood in which it is proposed because the property is located in the Commercial Zoning District where the existing auto part sales and installation business is a conforming use and there will be no changes to the existing use or signs associated with the permit at this time.

10.382, 10.383 and 10.385 – The proposal will not constitute a nuisance due to air pollution, lights, noise or visually offensive structures, substantial inconvenience to abutters or offensive uses on the site because no aspect of the use will be changed.

10.384 - Adequate and appropriate facilities will be provided for the proper operation of the proposed use because no changes to the existing use are proposed and where additional parking spaces are provided to meet the requirements of the Zoning Bylaw.

10.386 – The proposal ensures conformance with the Parking and Sign regulations (Articles 7 and 8 respectively) because additional parking spaces have been provided in accordance with Article 7 and that no aspect of the legally existing signs are being changed.

10.387 – The proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets, property or improvements because no aspect of the entrances are being altered and where a new handicap space is proposed to maintain designated access to the building.

10.388 – The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use because adequate storage facilities will be maintained and the site provides sufficient parking areas for vehicles.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage of surface water based upon the management plan submitted, the applicant has incorporated measures suitable to manage waste associated with the use.

10.392 - The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage to the extent the existing landscaping on site will be maintained.

10.396 - The proposal provides screening for storage areas and dumpsters as they are situated behind a screened fence.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it maintains an important business in a convenient location, which promotes the health, safety, convenience and general welfare of the inhabitants of Amherst.

Public Meeting - Zoning Board Decision:

Ms. Greenbaum made a motion to APPROVE the application, with conditions. Ms. Ashby seconded the motion.

For all the reasons stated above the Board VOTED unanimously to grant to Peter Greenberg a Special Permit, which shall supersede all previous Special Permits for the property, to continue the existing auto part sales and installation business and maintain the existing signs on the property, under Section 9.22 of the Zoning Bylaw, at 292 College Street (Map 14B, Parcel 198), with conditions.

JANE ASHBY

HILDA GREENBAUM

ERIC BEAL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants to Peter Greenberg a Special Permit, which shall supersede all previous Special Permits for the property, to continue the existing auto part sales and installation business and maintain the existing signs on the property, under Section 9.22 of the Zoning Bylaw, at 292 College Street (Map 14B, Parcel 198 COM Zone), with the following conditions:

1. This permit shall supersede all previous Special Permits for the property.
2. Any changes to the existing site conditions, as shown on the site plan prepared by Robinson Engineering and stamped approved by the Zoning Board of Appeals on September 25, 2008, shall be approved by the Zoning Board of Appeals at a public meeting;
3. All parking spaces, including the 3 new standard parking spaces and 1 new handicapped space, discharge aisle, and associated painted access way, shall be provided according to the site plan prepared by Robinson Engineering and stamped approved by the Zoning Board of Appeals on September 25, 2008;
4. All landscaping shall be maintained in perpetuity, in accordance with the site plan approved by the Zoning Board of Appeals on September 25, 2008;
5. The management of the business shall be according to the management plan documents titled Addendum #1 and Addendum #2 stamped approved by the Zoning Board of Appeals on September 25, 2008;
6. The hours of operation shall be from 7:00 A.M. to 6:00 P.M. Monday through Friday and 7:00 A.M. to 1:00 P.M. on Saturday. Any changes to the hours of operation shall be approved by the Zoning Board of Appeals during a public meeting;
7. All signs shall be in accordance the sign plan approved by the Zoning Board of Appeals dated February 7, 1991. No flashing lights or sign motion shall be allowed and the sign shall only be illuminated at night when the business is open;
8. Any changes to the signs or lighting shall be approved by the Zoning Board of Appeals during a public meeting;
9. There shall be no storage of tires outside of the fenced and screened area as shown on the site plan approved by the Zoning Board of Appeals on September 25, 2008 and all tires shall be removed from the site a minimum of every seven days;
10. This permit shall expire upon any change of ownership or management of this property or the current business.

JANE ASHBY, Acting Chair
Amherst Zoning Board of Appeals

DATE